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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/714,334 | 11/14/2003 | Dennis Gun Lee | DL0001 | 4044 |
| 36489 | 7590 | 08/30/2004 | EXAMINER | |
| KURT LEYENDECKER 9241 S LARK SPARROW DR. HIGHLANDS RANCH, CO 80126 | | | TRETTEL, MICHAEL | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3673 | |
| DATE MAILED: 08/30/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,334

Applicant(s)

LEE, DENNIS GUN

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 17-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 17-19 and 21-23 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 13 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Connolly et al (6,267,638). Connolly et al shows a pillow case 20 for use with a rectangular pillow 23. The case is substantially longer than a conventional pillow case, such that an extension 24 is formed adjacent the open end of the case when the pillow is inserted. This creates a space for the attachment of an article receiving pocket 25 upon the extension, which pocket can be used to retain an article such as a toy. The case is defined as being 33.5 inches long, and can be used to retain a conventional sized pillow of 25 inches in length (column 3, lines 8 to 14). The difference of 8.5 inches is more than 20% longer than the length of the pillow.

Claim Rejections - 35 USC § 103

Claims 2 to 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connolly et al (6,267,638). The use of foam materials such as viscoelastic foam in the production of the Connolly pillow would have been an obvious step to the skilled artisan, since viscoelastic foam is a well known stock material in the art commonly used in body supports. The dimensions claimed are also within the ordinary level of skill in the art, since it is presumed that the skilled

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artisan would recognize and/or use whatever dimensions are need to produce a final product of a size needed for its intended use.

Response to Amendment

Applicant's arguments with respect to claims 1 to 6, 11, and 13 have been considered but are moot in view of the new ground(s) of rejection. The newly cited patent to Connolly et al was found during an expanded and updated search performed upon the receipt of the applicant's amendment. Several other relevant references have been found which are now cited for the applicant's consideration.

Allowable Subject Matter

Claims 7 to 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14, 17 to 19, and 21 to 23 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swanger et al, Paolicelli, and Aird show pillow and pad covers that are longer in length than the cushion upon which they are used..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

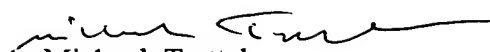
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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A handwritten signature in black ink, appearing to read "Michael Trettel", with a long horizontal flourish extending to the right.

Michael Trettel
Primary Examiner
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